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FROM: Terry W. Kramer
KRAMER & AMADO, P.C.

DATE: July 10, 2006

SUBJECT: U.S. Patent Application
Title: COMMUNICATIONS NETWORK USING DIFFERENT
TRANSMISSION PROPERTIES
Serial No.: 10/780,473
Attorney Docket No.: PHN16-613A

PAGES: INCLUDING COVER PAGE (18)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/780,473	
	Filing Date	February 17, 2004	
	First Named Inventor	Carel J.L. Van Driel	
	Art Unit	2616	
	Examiner Name	Jain, Raj K.	
Total Number of Pages in This Submission	17	Attorney Docket Number	PHN16-613A

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Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Kramer & Amado, P.C.		
Signature	<i>Mark R. Woodall</i>		
Printed name	Mark R. Woodall		
Date	7/10/06	Reg. No.	43,286

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FEE TRANSMITTAL
For FY 2006☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500.00

Complete if Known

Application Number	10/780,473
Filing Date	February 17, 2004
First Named Inventor	Carel J.L. Van Driel
Examiner Name	Jain, Raj K.
Art Unit	2616
Attorney Docket No.	PHN16-613A

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Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
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- 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
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- 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
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4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief Filing FeeFees Paid (\$)

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SUBMITTED BY

Signature	<i>Mark R. Woodall</i>	Registration No. 43,286 (Attorney/Agent)	Telephone 703-519-9801
Name (Print/Type)	Mark R. Woodall		Date July 10, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2006☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500.00

Complete if Known

Application Number	10/780,473
Filing Date	February 17, 2004
First Named Inventor	Carel J.L. Van Driel
Examiner Name	Jain, Raj K.
Art Unit	2616
Attorney Docket No.	PHN16-613A

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☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments

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	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
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Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 (including Reissues)

Fee (\$)	Small Entity Fee (\$)
50	25

Each independent claim over 3 (including Reissues)

200	100
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Multiple dependent claims

360	180
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Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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- 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

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Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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- 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief Filing Fee

Fees Paid (\$)

500.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 43,288	Telephone 703-519-9801
Name (Print/Type)	Mark R. Woodall	Date July 10, 2006	

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT

**IN THE UNITED STATE PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of: : Carel J.L. Van Driel
:
For: : COMMUNICATIONS NETWORK USING
: DIFFERENT TRANSMISSION
: PROPERTIES
:
Serial No. : 10/780,473
:
Filed : February 17, 2004
:
Art Unit : 2616
:
Examiner : Jain, Raj K.
:
Attorney Docket No. : PHN16-613A
:
Confirmation No. : 1391

APPEAL BRIEF

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P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed June 1, 2006.

I. REAL PARTY IN INTEREST

The party in interest is the assignee, Koninklijke Philips Electronics, N.V. The assignment document is recorded at Reel 014993 and Frame 0473.

07/11/2006 MBINAS 00000049 10780473

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Application No: 10/780,473
Attorney's Docket No: PHI 3040**II. RELATED APPEALS AND INTERFERENCES**

Following are identified any prior or pending appeals, interferences or judicial proceedings, known to Appellant, Appellant's representative, or the Assignee, that may be related to, or which will directly affect or be directly affected by or have a bearing upon the Board's decision in the pending appeal:

There are no related appeals and interferences.

III. STATUS OF CLAIMS

This is an appeal from the final rejection dated April 3, 2006 of claims 11-16. No other claims are pending. No claims are allowed. Claims 1-10 are cancelled.

IV. STATUS OF AMENDMENTS

All Amendments filed in this application has been entered. A correct copy of appealed claims 11-16, including all entered amendments thereto, appears in the attached Appendix.

V. SUMMARY OF CLAIMED SUBJECT MATTER

According to an embodiment of the invention, a communication network comprises a plurality of secondary nodes being coupled to at least one primary node. The secondary nodes transmit packets to the primary node; and include a first address translation means for translating initial address information carried by packets received from at least one terminal device into address

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information carrying information about the transmission properties to be used for transmitting the packets to the primary node.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 11 and 13-16 are rejected as allegedly being anticipated under 35 U.S.C. § 102(e) by U.S. Patent Number 6,026,086 to Lancelot.
2. Claim 12 is rejected as allegedly being unpatentable under 35 U.S.C. § 103(a) over Lancelot in view of U.S. Patent Number 5,802,063 to Deiss.

VII. ARGUMENT

1. 35 U.S.C. § 102(e)

The Office Action rejects claims 11 and 13-16 under 35 U.S.C. § 102(e) as allegedly being anticipated by Lancelot. Applicant respectfully requests that this rejection be reversed because Lancelot does not disclose the subject matter according to the combinations recited in claims 11 and 13-16.

Lancelot discloses a circuit switched network interface for communication of a circuit switched network protocol signal; a packet-based network interface for communication of a packet-based network protocol signal; and a transceiver for the transmission and reception of a first protocol signal. A communications controller is coupled to the circuit switched network interface, the packet-based network interface and the transceiver. The communications controller, through a set of program instructions and an inter-working function, inter-converts the

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Attorney's Docket No: PHI 3040

first protocol signal with the circuit switched network protocol signal and inter-converts the first protocol signal with the packet-based network protocol signal. Lancelot's network has a primary node for translating data into a form suitable for transmission over a packet-based network, or over a circuit-based network. Lancelot's network also has a secondary node which transmits data to the primary node using a defined protocol, such as CACS (See Abstract, Col. 3, lines 45-60).

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if Lancelot does not disclose each and every element according to the combinations recited in the rejected claims, then Lancelot fails to anticipate the rejected claims. In that instance, the subject matter recited in the rejected claims is patentably distinct from Lancelot.

Claim 11 recites a communication network including "secondary nodes comprising a transmitter for transmitting packets according to predetermined transmission properties; and a first address translator for translating initial address information carried by packets ... into address information carrying information about ... the predetermined transmission properties to be used for

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transmitting the associated packets.” Appellant respectfully asserts that Lancelot fails to disclose the translation of address information into information about the transmission properties to be used for transmission. Specifically, Lancelot fails to disclose the translation of initial address information carried by packets into information about the transmission properties to be used for transmitting the associated packets by a secondary node.

The primary nodes disclosed in Lancelot are able to transmit according to different transmission properties, i.e., packet-based vs. circuit-based. See col. 3, lines 45-67. However, Lancelot does not disclose that the secondary node is able to transmit according to predetermined transmission properties included within initial address information of packets. Accordingly, Lancelot does not disclose all of the subject matter according to the combinations recited in claim 11.

For at least the foregoing reasons, Applicant respectfully submits that claim 11 is allowable. Claims 13-14 depend upon allowable claim 11 and are also allowable at least by virtue of their dependency therefrom. Therefore, Appellant respectfully requests that the Board reverse the rejection of claims 11, 13, and 14 as being allegedly anticipated by Lancelot.

Claim 15 recites a “destination node for communication in a communication system having a plurality of source nodes arranged for transmitting of packets containing initial address information..., the destination node arranged to perform a second address translation, translating the address of the destination node back into the initial address information.” Lancelot does not disclose translating the address of the destination node back into the initial address information. Lancelot provides reverse address resolution protocol (RARP) functionality, for the primary station (destination node) to determine whether a packet from a first secondary station is destined

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for another, second secondary station. However, Reverse Address Resolution Protocol (RARP) is a protocol used to resolve an IP address from a given hardware address. The primary station also translates IP addresses into hardware addresses of secondary stations. See col. 11, lines 20-30. Thus, the primary station merely translates IP addresses into hardware addresses, and vice versa.

Accordingly, Lancelot does not disclose all of the subject matter according to the combination recited in claim 15. Thus, for at least the foregoing reasons, Applicant respectfully requests that the Board reverse the rejection of claim 15 as allegedly being anticipated by Lancelot.

Claim 16 recites a "communication method comprising ... translating initial address information carried by packets received from at least one terminal device into address information carrying information about the transmission properties to be used for transmission of the packets." Lancelot does not disclose the translation of address information from a terminal device into information about transmission properties. More specifically, Lancelot does not disclose the translation of initial address information carried by packets into information about the transmission properties to be used for transmitting the associated packets.

Thus, Applicant respectfully asserts that Lancelot does not disclose the subject matter according to the combination recited in claim 16. For at least the foregoing reasons, Applicant respectfully requests that the Board reverse the rejection of claim 16 as allegedly being anticipated by Lancelot.

Application No: 10/780,473
Attorney's Docket No: PHI 3040

2. 35 U.S.C. § 103(a)

Claim 12 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lancelot in view of Deiss. The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

As detailed above in connection with the rejection of claim 11 under 35 U.S.C. § 102(e) as allegedly being anticipated by Lancelot, Applicant respectfully submits that claim 11 is not anticipated by Lancelot. Additionally, Applicant respectfully submits that Deiss fails to overcome the deficiencies in Lancelot described above in connection with the rejection of claim 11. Thus, Applicant respectfully submits that the Official Action correctly did not rely upon Deiss to make up for the deficiencies in Lancelot described above.

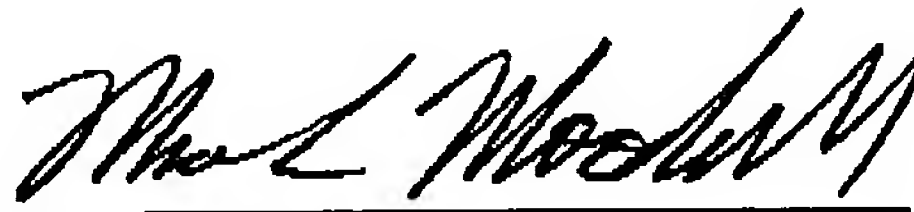
Application No: 10/780,473
Attorney's Docket No: PHI 3040

For at least the foregoing reasons, claim 12, which depends from claim 11, is allowable at least by virtue of its dependency therefrom. Thus, Applicant respectfully requests that the Board reverse the rejection of claim 12 as being unpatentable over Lancelot in view of Deiss.

3. Conclusion

For at least all of the reasons discussed above, Applicant respectfully submits that the rejections are in error and that claims 11-16 are in condition for allowance. Thus, for at least all of the above reasons, Appellant respectfully requests that this Honorable Board reverse the rejections of claims 11-16.

Respectfully submitted,
KRAMER & AMADO, P.C.



Mark R. Woodall
Reg. No. 43,286

DATE: July 10, 2006

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Application No: 10/780,473
Attorney's Docket No: PHI 3040

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VIII. CLAIMS APPENDIX

CLAIMS INVOLVED IN THE APPEAL:

11. Communication network comprising a plurality of secondary nodes being coupled to at least one primary node,

the secondary nodes comprising:

a transmitter for transmitting packets to the primary node according to predetermined transmission properties; and

a first address translator for translating initial address information carried by packets received from at least one terminal device into address information carrying information about:

(a) the predetermined transmission properties to be used for transmitting the associated packets, and

(b) a destination node;

the communication network further comprising a second address translator for translating the address information back into the initial address information.

12. A communication network as claimed in Claim 11, comprising a selector for selecting packets according to address information in their header, the transmitter transmitting the packets with the transmission properties dependent on the selection performed by the selector.

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13. A communication network as claimed in Claim 11, wherein the primary node comprises the second address translator.

14. A communication network as claimed in Claim 11, the communication network comprising a cross connect for passing packets from the secondary nodes to an outside network, wherein the second address translator is arranged for translating the address information before the packets are applied to the cross connect.

15. A destination node for communication in a communication system having a plurality of source nodes arranged for transmitting of packets containing initial address information whereby a source node that is sending a packet performs a first address translation providing information within the packet header designating the address of the destination node, the destination node arranged to perform a second address translation, translating the address of the destination node back into the initial address information.

16. A communication method comprising transmitting packets according to predetermined transmission properties, translating initial address information carried by packets received from at least one terminal device into address information carrying information about the transmission properties to be used for transmission of the packets, and translating said address information back into the initial address information at a destination node.

Application No: 10/780,473
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IX. EVIDENCE APPENDIX

A copy of the following evidence 1) entered by the Examiner, including a statement setting forth where in the record the evidence was entered by the Examiner, 2) relied upon by the Appellant in the appeal, and/or 3) relied upon by the Examiner as to the grounds of rejection to be reviewed on appeal, is attached:

NONE.

JUL 10 2006

Application No: 10/780,473
Attorney's Docket No: PHI 3040

X. RELATED PROCEEDINGS APPENDIX

Copies of relevant decisions in prior or pending appeals, interferences or judicial proceedings, known to Appellant, Appellant's representative, or the Assignee, that may be related to, or which will directly affect or be directly affected by or have a bearing upon the Board's decision in the pending appeal are attached:

NONE